


**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION
Save Our Shores appeal of the Gallagher Family (North Marin Water District)
Coastal Permit and Use Permit**

Recommendation: Deny the appeal and sustain the Deputy Zoning Administrator's Decision to approve the Gallagher Family Coastal Permit and Use Permit

Hearing Date: May 24, 2021

Application No(s): P3010
Agenda Item: 1
Last Date for Action: 4/8/2021

Owner(s): Gallagher Family LLC
Assessor's Parcel No(s): 119-050-17
Property Address: 14500 Pt. Reyes-Petaluma Road, Point Reyes
Project Planner: Immanuel Bereket
Signature: 

Countywide Plan Designation: C-AGI-1 (Coastal Agricultural)
Community Plan Area: N/A
Zoning District: C-APZ-60 (Coastal, Agricultural Production Zone)
Environmental Determination: Mitigated Negative Declaration North Marin Water District as the lead agency.

PROJECT SUMMARY

The applicant, Drew McIntyre, on behalf of the North Marin Water District (NMWD) and the Gallagher Family, is requesting Coastal Permit and Use Permit approval to construct and operate a municipal well to provide water for customers in the community of Point Reyes Station. Two wells are located on U.S. Coast Guard property in Point Reyes Station (Coast Guard Wells), while the third well (Gallagher Well No. 1). is located on the project site. The proposed project is to construct Gallagher Well No. 2 as part of the Gallagher Wells, located approximately 500 feet north of the existing Gallagher Well No. 1. The purpose of the proposed project is to increase the reliability of domestic water supply to offset the loss of water production at the NMWD's other wells located on the U.S. Coast Guard property. The proposed well would tie into the existing water transmission pipeline located south of the private Gallagher Ranch access road. The proposed well and distribution pipelines would occur within 100 feet of Lagunitas Creek, which traverses the project site.

As part of this project, the NMWD would abandon an existing well (the Downey Well), which lies within the Lagunitas Creek stream channel. The Downey Well was initially constructed on the

bank of the Lagunitas Creek stream. However, the creek has migrated over time such that the well is now located at the center of the creek channel. As a result, Downey Well produces unsafe water quality for domestic consumption. Other improvements proposed include the construction of water distribution pipelines, pump stations, a well field, and other components both within and outside the project site.

The proposed municipal water well will serve the public's critical need by creating a reliable water source for the communities of Point Reyes Station, Olema, Inverness Park, and Paradise Ranch Estates.

PROJECT SETTING

Characteristics of the site and surrounding area are summarized below:

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|-------------------------------|---|
| Lot Area: | 14,378,720 square feet (330 acres). |
| Adjacent Land Uses: | Active grazing and Agricultural uses. |
| Topography and Slope: | 30 percent average slope |
| Existing Vegetation: | The site is moderately covered with vegetation. Vegetation consists of a non-native annual grassland and mature trees along the entire perimeter of the property. |
| Environmental Hazards: | The project is located in a Seismic Shaking Amplification Hazard Area Zone 2, but is not located within the vicinity of any known fault lines. |

The project site consists of a 330-acre ranch within an agricultural production zone (APZ). It is currently used for grazing and public wells. The well site is located on a small land area within the Lot (130 feet by 85 feet). The site is sparsely improved with a residence, driveway, and a grove of various mature trees are located along the entire perimeter of the property. Point Reyes-Petaluma Road provides access to the site. The only residence near the well site is the residence on the Gallagher Ranch, which is located approximately 300 feet east of the existing well site and 400 to 800 feet from the proposed well site.

The surrounding agricultural land is characterized by grassy and steeply sloping hills, fencing, and open space. Development in the surrounding area is sparse, with occasional residences punctuating the otherwise open landscape. Much of the area is actively used for grazing and active farming. The nearest residences on adjacent ranches are more than one-half mile away from the proposed site. A segment of the Lagunitas Creek, identified as a blue-line stream on the most recent edition of the USGS 7.5-minute quadrangle map, traverses the property. An existing District well is located within approximately 100 feet of the creek channel.

BACKGROUND

The NMWD is a regulated public utility and provides water to Point Reyes Station, Olema, Inverness Park, and Paradise Ranch Estates from three wells and through a single interconnected system (the water supply network is collectively known as Point Reyes Water System). Two wells are located on U.S. Coast Guard property in Point Reyes Station ("Coast Guard Wells"), while the third well ("Gallagher Well No. 1") is located on the project site. The service area is approximately 24 square miles. The NMWD service area has approximately 776 active connections serving a population of 1,700, using approximately 263 acre-feet per year (AF/Y). Recent salinity intrusion has impacted water quality from the existing Coast Guard Wells, threatening public health for municipal water users. This change in conditions has

necessitated the construction of this project, Gallagher Well No. 2, as an urgent matter to protect the quality of water supply. The proposed project would provide an additional water source when the Coast Guard Wells cannot be operated due to salinity intrusion and other operational conditions preventing pumping.

The NMWD is the public agency responsible for carrying out the proposed project and is considered the Lead Agency under the California Environmental Quality Act (CEQA), while the County is considered a Responsible Agency with some discretionary authority over the application. The NMWD previously approved a Mitigated Negative Declaration (MND) for the entire Point Reyes Water System, which consists of three wells at two sites adjacent to Lagunitas Creek. Two wells are located on U.S. Coast Guard property in Point Reyes Station ("Coast Guard Wells"), while the third well is located on water district property approximately one mile upstream ("Gallagher Well No. 1"). The current proposal is to construct Gallagher Well No. 2 as part of the Gallagher Wells and Pipeline Project, which was approved by NMWD in 2009. The majority of proposed facilities have been constructed and are currently operational. While this new location is within the Gallagher Ranch project site described in the 2009 MND, it requires an alternate alignment for the pipeline. To address these minor project changes, the NMWD prepared and circulated a CEQA Addendum analyzing the impacts of construction and operation of the proposed Gallagher Well No. 2, which was previously studied in the 2009 MND. The CEQA addendum was circulated on January 5, 2021, for a 30-day public review. On March 2, 2021, the NMWD Board approved a resolution adopting the Addendum.

The Coastal Permit and Use Permit application was submitted on January 6, 2021. Upon receipt, the application was transmitted to the Department of Public Works (DPW), Environmental Health Services (EHS), the California Coastal Commission (CCC), California Water Board and posted online for public review and comments. A notice was posted on the project site on January 13, 2021, identifying the applicants and describing the project and its location. A site visit was conducted on the same day the notice was posted.

The application was deemed complete on February 8, 2021. The Community Development Agency provided a mailed public notice on February 15, 2021, identifying the applicant, describing the project and its location, hearing date, and location in accordance with California Government Code requirements. Said notice was mailed to all property owners within 600 feet of the subject property.

In response to the public hearing notice, the Community Development Agency received two letters from Mr. Gordan Bennett, on behalf of an organization called Save Our Seashore, objecting to the project as well several pieces of correspondence from residents of West Marin in support of the project. Since the first of the two letters from Mr. Bennett was submitted during the CEQA 30-day review, the NMWD prepared a detailed response in the Final Addendum that the NMWD adopted on March 2, 2021. The second letter from Mr. Bennett calls into question the adequacy of the CEQA documents. All correspondence has been provided as attachments to this report.

On March 25, 2021, the Deputy Zoning Administrator conditionally approved the project. On April 1, 2021, Mr. Gordan Bennett, on behalf of an organization called Save Our Seashore, submitted a timely appeal of the Bolinas Community Land Trust Coastal Permit approval.

RECOMMENDATION

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, deny Mr. Bennett's appeal, and affirm the Deputy Zoning Administrator's approval of the Gallagher Family Coastal Permit and Use Permit.

Attachments:

1. Recommended resolution
2. Deputy Zoning Administrator Staff Report and Resolution, dated March 25, 2021
3. Marin County Environmental Health Services, memorandum dated January 9, 2021
4. Appeal Petition with exhibits, dated June 4, 2020
5. Applicant's written response to the appeal petition
6. Letter from Save Our Seashore, dated February 1, 2021, and response from the district
7. Letter from Save Our Seashore, dated March 5, 2021
8. All other correspondences
9. Project plans

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION DENYING THE SAVE OUR SHORES APPEAL AND APPROVING THE GALLAGHER FAMILY COASTAL PERMIT AND USE PERMIT 14500 PT. REYES-PETALUMA ROAD, POINT REYES STATION ASSESSOR'S PARCEL: 119-050-17

SECTION I: FINDINGS

1. WHEREAS, Drew McIntyre, on behalf of the North Marin Water District (NMWD) and the Gallagher Family, is requesting Coastal Permit and Use Permit approval to construct and operate a municipal well to provide water for customers in the community of Point Reyes Station. Two wells are located on U.S. Coast Guard property in Point Reyes Station (Coast Guard Wells), while the third well (Gallagher Well No. 1). is located on the project site. The proposed project is to construct Gallagher Well No. 2 as part of the Gallagher Wells, located approximately 500 feet north of the existing Gallagher Well No. 1. The purpose of the proposed project is to increase the reliability of domestic water supply to offset the loss of water production at the NMWD's other wells located on the U.S. Coast Guard property. The proposed well would tie into the existing water transmission pipeline located south of the private Gallagher Ranch access road. The proposed well and distribution pipelines would occur within 100 feet of Lagunitas Creek, which traverses the project site.

As part of this project, the NMWD would abandon an existing well (the Downey Well), which lies within the Lagunitas Creek stream channel. The Downey Well was initially constructed on the bank of the Lagunitas Creek stream. However, the creek has migrated over time such that the well is now located at the center of the creek channel. As a result, Downey Well produces unsafe water quality for domestic consumption. Other improvements proposed include the construction of water distribution pipelines, pump stations, a well field, and other components both within and outside the project site.

The proposed municipal water well will serve the public's critical need by creating a reliable water source for the communities of Point Reyes Station, Olema, Inverness Park, and Paradise Ranch Estates.

The property is located at 14500 Pt. Reyes-Petaluma Road, Point Reyes Station, and is further identified as Assessor's Parcel 119-050-17.

2. WHEREAS, the NMWD prepared and adopted a Mitigated Negative Declaration (NMD) in 2009 in accordance with the requirements of the California Environmental Quality Act Guidelines (14 Cal. Code Regs. 15000, et seq.).

3. WHEREAS, on February 7, 2021, the NMWD prepared an Addendum to the 2009 MND, which was circulated for a 30-day public review period and was adopted by the NMWD Board at its meeting of March 2, 2021.

4. **WHEREAS**, under State CEQA Guidelines Section 15367, the NMWD is the Lead Agency responsible for carrying out or approving a project and implementing the CEQA process and preparing the CEQA document for the project (Cal. Code Regs. tit. 14, Section 15050).
5. **WHEREAS**, the County is a Responsible Agency under the State CEQA Guidelines Section 15381.
6. **WHEREAS**, The Addendum that the NMWD prepared, circulated for public review, and adopted concluded that there were no changes in circumstances and that there were no new information or previously unstudied significant environmental effects. The County's review determined that the aspects of the project subject to County approval are adequately evaluated by the 2009 MND and 2021 Addendum, and, therefore, further environmental review cannot be required by the County as a Responsible Agency.
7. **WHEREAS**, on March 25, 2021, the Marin County Deputy Zoning Administrator held a duly noticed public hearing and approved the project.
8. **WHEREAS**, on April 1, 2021, Mr. Gordan Bennett, on behalf of Save Our Shore, submitted a timely appeal of the Gallagher Family Coastal Permit Use Permit approval.
9. **WHEREAS**, on May 24, 2021, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider the project.
10. **WHEREAS**, the bases of appeal are insufficient to overturn the Deputy Zoning Administrator's approval of the project for the reasons discussed below.

A. The appellant asserts that the 2009 Mitigated Negative Declaration is inadequate for the proposed modification, and a new environmental impact report must be prepared.

Under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq.) and the CEQA Guidelines contained in Title 14 of the California Code of Regulations (Cal. Code Regs. Tit. 14, Section 15000), a state or local agency typically assumes one of two roles in CEQA implementation: Lead Agency or Responsible Agency. A Lead Agency has the principal responsibility for carrying out or approving a project and, therefore, has the lead responsibility for implementing the CEQA process and preparing the CEQA document for that project (Cal. Code Regs. tit. 14, Section 15050). A Responsible Agency is an agency other than the Lead Agency with some discretionary authority over a project or a portion of it, but which is not designated the Lead Agency (State CEQA Guidelines Section 15381.). CEQA also requires Lead Agencies to consult with relevant trustee agencies with jurisdiction by law when preparing CEQA documents (Cal. Code Regs. tit. 14, Section 15086). Trustee agencies, such as the Department of Fish and Wildlife (DFW), have jurisdiction over resources held in trust for California (Cal. Code Regs. tit. 14, Section 15386).

In this case, the NMWD is the public agency responsible for carrying out the proposed project and is the Lead Agency, while Marin County is a Responsible Agency. As a Lead Agency, the NMWD has the authority to determine what level of CEQA review is required for the project and for preparing and approving the appropriate document [e.g., negative declaration (ND), mitigated negative declaration (MND), or Environmental Impact Report (EIR)]. The Lead Agency's decision is binding on all Responsible Agencies, except in

unusual circumstances (PRC Section 21080.1(a); State CEQA Guidelines Section 15050(c)). The role of a Responsible Agency is much narrower than that of a Lead Agency. While the Lead Agency must consider all environmental impacts of the project before approving it, a Responsible Agency has a much more specific charge: to consider only those aspects of the project that are subject to the Responsible Agency's jurisdiction. (State CEQA Guidelines Section 15096). In other words, the County needs to rely on the environmental review adopted by the Lead Agency, but that does not mean that the County has to approve the project.

B. The appellant asserts that the Deputy Zoning Administrator erred in approving the project without preparation of a new Environmental Impact Report.

The State CEQA Guidelines allow the Lead Agency to prepare an addendum to an adopted negative declaration "if only minor technical changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred" (14 C.C.R., CEQA Guidelines Section 15164 (b)).

The Addendum that the NMWD prepared, circulated for public review, and adopted concluded that there were no changes in circumstances and there was no new information or previously unstudied significant environmental effects. Further, as explained in the Addendum, all environmental effects would be reduced to less than significant with the incorporation of mitigation measures adopted in the 2009 MND. The appellant chose not to challenge the NMWD decision in court, and the time limit for such a challenge has since lapsed.

C. The appellant asserts that the North Marin Water District has not fully studied the effects of multiple wells, and additional wells may not be necessary to serve its customers.

In this appeal point, the appellant raises no issues related to the project conformity with standards outlined in the Coastal Act, the Marin County Local Coastal Program (LCP), or the Interim Zoning Code. Instead, the appellant questions whether the NMWD completed the appropriate level of studies and whether an additional well is necessary to serve the NMWD's customers.

Pursuant to Interim Zoning Code Section 22.89.120I, this appeal is de novo. For the Planning Commission's "de novo" review of the application, the standard of review for the subject Coastal Permit and Use Permit is, in part, the policies and provisions of the County of Marin Local Coastal Program, the Countywide Plan and the Interim Zoning Code, which applies to the coastal areas.

As described in detail in Section 9 below, the proposed project is consistent with the mandatory findings for Coastal Permit approval and would not adversely impact any coastal resources, including coastal access and recreational facilities. Further, as discussed in Section 10 below, the proposed project is consistent with the governing C-APZ-60 zoning district and required findings under Section 22.57.036I of Interim Zoning Code because it would be compatible with and accessory to the existing agricultural uses on the property. Finally, as discussed in Section 11 below, the proposed project meets the mandatory findings to approve a Use Permit (under Section 22.88.010I.2 of the Interim Zoning Code) because public utilities, such as public wells, may be permitted with a Use Permit under

Section 22.88.010I.2 of the Interim Marin County Code when it is found to be necessary for public health, safety, convenience, or welfare.

The DZA approved the Coastal Permit application because it met the legal requirements and findings for approving such a permit. The DZA purview does not include a determination of whether a project is necessary. Instead, as discussed above, the standard of review is confined to the project's consistency with all applicable regulations. Based on the substantial evidence on record, including project plans and environmental studies, the DZA determined the project met the required findings for approval.

11. **WHEREAS**, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:

- A. As discussed in Section 6 below, the proposed project is compatible with the C-APZ land use designation for the project site. It would not interfere with the existing use of the ranch property for livestock grazing. The project will involve the construction of a municipal well that is accessory to the existing use. The design, location, size, and operating characteristics of the proposed facility will be compatible with the allowed uses in the vicinity.
- B. As discussed in Section 17 below, the mandatory Use Permit findings can be made under Section 22.48.040I of the Marin County Code to allow a public utility to serve the public and is necessary for public safety, convenience, and welfare.
- C. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because it would not entail the irreplaceable removal of a substantial number of mature, native trees. No vegetation removal is proposed with this project.
- D. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.
- E. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because it would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands. As documented in the MND, two components of the proposed project would require work within the stream channel of Lagunitas Creek. Removing the existing wellhead of the Downey Well will require that an excavator, working from the top of the bank, remove the existing wellhead. No riparian vegetation would be removed to abandon the well. The relocated gauging station would be constructed on the edge of the Gallagher Ranch pasture and would not require removal of riparian or vegetation other than annual grasses.
- F. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed municipal water well is one of the types of improvements permitted within the wetland conservation area and stream conservation area, provided such projects would not result in any significant adverse direct or indirect impacts on wetlands and minimize impacts to stream function and to fish and wildlife habitat.

As discussed above, the proposed project is to construct a municipal well to serve the public. Although the proposed project would be located adjacent to Lagunitas

Creek, which is identified as a blue-line stream, no stream impoundments or direct diversions would occur as part of the project, nor would the project alter the stream channel or stream banks. Further, construction activities would not conflict with any Habitat Conservation Plans, Natural Conservation Community Plans, or any approved local, regional, or State habitat conservation plans. Additionally, the project proposes to dedicate certain water rights for instream flows to protect, preserve, restore, and recover aquatic organisms and wildlife habitat. This water dedication would benefit wetland habitat in West Marin by allowing the National Park Service to implement its planned Olema Marsh restoration by availing additional water, enabling full implementation of the Giacomini Wetland Restoration Project.

Strict adherence to the adopted Mitigation Monitoring and Reporting Program (MMRP) would ensure no impacts on the CWP stream and wetland conservation policies.

- G. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
- H. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services.

12. **WHEREAS**, the project is consistent with the mandatory findings for Coastal Permit approval (Marin Interim Zoning Code Section 22.56.130I).

A. Water Supply.

The NMWD historically has relied on the two Coast Guard Wells (located to the south of its treatment plant, which is located approximately 500 feet from the end of Commodore Webster Drive at the Point Reyes Station former Coast Guard Housing Facility) to supply water for the West Marin service area. Due to the wells' location in the upper tidal reach of Lagunitas Creek, they are under the influence of flows in the tidal reach of Lagunitas Creek and subject to periodic salinity intrusion and occasional flooding. The Gallagher Ranch site is upstream of any flooding and tidal reaches of Lagunitas Creek. However, the existing NMWD Gallagher Well No. 1 has a limited flow capacity (170 gallons per minute) and is not currently connected to the West Marin distribution system. This project would increase the water supply from the Gallagher site and integrate those wells into the NMWD distribution system. Because both Coast Guard Wells mostly have acceptable water quality, offer reliable water supply during most months, and have ample capacity to recharge, the Coast Guard Wells will continue to be the primary source.

The proposed Gallagher Well No. 2 would be used during periods of high tides, avoiding saltwater intrusion into the water supply system. By establishing a reliable emergency backup source of water upstream of the high tide water influences of Tomales Bay, water service reliability will increase with the implementation of the proposed project. The proposed well will serve West Marin communities of Point Reyes Station (including the Coast Guard housing area), Inverness Park, Paradise Ranch Estates, Bear Valley (including the Point Reyes National Seashore), and

Olema. The NMWD has an agreement to assist the Inverness Public Utilities District during emergency water shortages. The development of this supplementary supply, therefore, stands to benefit that community.

The project would be consistent with planned development and planned growth in the region. The LCP describes existing and projected growth in the region. The LCP also describes existing and projected water supply and demand in keeping with this projected growth. The proposed project is consistent with the LCP in that it is not growth-inducing and would not increase the NMWD's water supply. Instead, the proposed project is intended to secure a reliable and safe source of domestic water for the NMWD's customers. The project would offset pumping volumes obtained at the Coast Guard Wells only when unavailable due to salinity intrusion or other operational conditions preventing pumping. The amount of water pumped from all wells would remain within limits set in the water right permits.

B. Septic System Standards.

The Marin County Environmental Health Services Division staff reviewed the proposed project and determined that the existing septic system would not be affected by the project.

C. Grading and Excavation.

The project site has various slopes, and the project is designed to fit the site's topography and existing soil conditions. The project would include digging an approximately 500-foot-long trench to place the pipeline and digging the 59-foot deep well. The land exposed at any one time during construction will be kept to the shortest possible time. As required by the mitigation measures, the area must be restored to a similar condition as before the project. All excavated soil and excess material will be hauled to NMWD's Corporation Yard in Novato for future use. The well pad would be the only impervious surface created by the project. Chemicals, fuels, and any other materials onsite would be used only for construction and would be properly disposed of within an authorized landfill.

D. Archaeological Resources.

The project site was surveyed for archaeological and historical resources in connection with the 2009 MND and the Gallagher Ranch bank stabilization projects. No archaeological resources were identified as part of this survey or subsequent implementation of the Gallagher Well No. 1 or bank stabilization, both of which were completed in 2010. While it is unlikely that the project would result in disturbances to cultural resources, in the event archeological resources are uncovered during construction, all work shall immediately cease. The services of a qualified consulting archaeologist must be engaged to assess the value of the resource and develop appropriate mitigation measures.

E. Coastal Access.

The proposed project is not located adjacent to a shoreline. Therefore, the project would not have any impact upon coastal access.

F. Housing.

The proposed project would not remove a residential unit that would provide housing opportunities for low or moderate-income people.

G. Stream and Wetland Resource Protection.

A municipal well is allowed within stream or wetland area under the Marin County Interim Zoning Code Section 22.56.130I.G.1, which provides "[s]tream diversions shall be limited to necessary water supply projects..." and the minimum flows necessary to maintain fish habitat, existing water quality, and protect downstream resources are maintained, as determined by the Department of Fish and Game and the Division of Water Rights of the State Water Resources Control Board (SWRCB). Additionally, under the LCP's Natural Resources Policy 3.a, development of water supply infrastructure within mapped perennial or intermittent streams, including impoundments, diversions, channelizations, and other substantial alterations, are permitted, provided such projects minimize impacts on sensitive coastal resources. The LCP's Natural Resources Policy 3.b provides that for such water supply projects must "incorporate the best mitigation measures feasible, including erosion and runoff control measures, and revegetation of disturbed areas with native species. Disturbance of riparian vegetation shall be held to a minimum."

As described in the project documents, the project could result in a reduction in creek discharge. However, the magnitude of this reduction would be negligible and would not substantially reduce streamflow or lower water surface to the degree that would adversely impact stream habitat, and thus would not decrease stream flows, individually or cumulatively, below the minimum flow level required by the SWRCB.

H. Dune Protection.

The project site is located east of the community of Point Reyes Station. There are no naturally occurring dunes on or within the vicinity of the project site.

I. Wildlife Habitat Protection.

As described in the 2009 MND and subsequent Addendum, no vegetation or special-status species and sensitive natural communities would be removed or impacted by the project. Special-status animal species, including Steelhead and Coho, were identified as present in the project area along Lagunitas Creek. However, the proposed project would be sited to avoid wildlife habitat areas and to provide buffers for such habitat areas. Additionally, mitigation measure 12-25 requires protection measures for special-status species. Adherence to the required mitigation measures described in the MND would minimize impacts to special status species.

J. Protection of Native Plant Communities.

The proposed project itself would not adversely impact native plant communities because the project is proposed to occur in an area where no vegetation exists. However, according to the 2009 MND, the project site includes special-status species and non-indigenous, naturalized annual grass species. These non-indigenous grasses threaten the re-establishment of native plant species. As required by the

project mitigations, the project would include reseeded of disturbed areas with native vegetation appropriate for the habitat type following construction.

K. Shoreline Protection.

The subject property is not adjacent to the shoreline, and the proposed project would not result in adverse effects on the coastline. The project would not require additional shoreline protection.

L. Geologic Hazards.

The project is located in a Seismic Shaking Amplification Hazard Area Zone 2, but is not located within the vicinity of any known fault lines.

M. Public Works Projects.

The proposed project is not located near Highway 1, nor would it include any roadway improvements. As described in the application material, the purpose of the project is to protect the safety and reliability of NMWD's water supply for its consumers. The project would not increase NMWD production capacity but would provide a supplemental supply source when the other well sites are unavailable. The project would not expand utility service beyond the existing service limits and would conform with the resource and visual policies of the LCP and Marin municipal code.

N. Land Division Standards.

The project does not include a land division or property line adjustment.

O. Visual Resources and Community Character.

Once the construction of the project is completed, project improvements would not be visible from public vantage points because of topography and existing vegetation. The small gauging station enclosure would be screened by vegetation between Point Reyes-Petaluma Road and the creek. The wellhead vault would be almost flush with the ground surface. Piping would be underground, except where it is attached to the underside of the Gallagher Ranch bridge. The pump control steel cabinet would be aboveground but screened for public view by roadside vegetation from Point Reyes/Petaluma Road. The project would not alter existing open space views in the area.

P. Recreational/Commercial/Visitor Facilities.

The project site is governed by C-APZ-60 (Coastal, Agricultural Production Zone) zoning regulations and would not provide commercial or recreational facilities.

Q. Historic Resource Preservation.

The project site is not located within an identified historic area of the LCP. The project site was surveyed for archaeological and historical resources in 2009 for the Gallagher Ranch bank stabilization project, and no historical resources were identified.

A California Historical Resources Information System (CHRIS) records search identified one existing resource of the Black Mountain Historic era ranch. The bridge over Lagunitas Creek was identified as a new historic resource. The project would not impact these resources because the well and the mains would be primarily underground.

13. **WHEREAS**, the proposed project is consistent with the governing C-APZ-60 (Coastal, Agricultural Production Zone, one unit per 60 acres maximum density) and required findings under Section 22.57.036I of Marin County Code because:

- A. The project would be compatible with and accessory to the existing agricultural uses on the property. Public water facilities like wells are conditionally permitted in the C-APZ zoning district. The proposed well would not significantly affect agricultural production on the Gallagher Ranch. The project would affect less than 0.01 percent of the 330-acre ranch and would not interfere with the operation of the existing livestock ranching operations.
- B. The proposed project will have no significant adverse impacts on environmental resources, including stream or riparian habitats and scenic resources.
- C. The proposed project will not impact or impair other agencies' ability to provide necessary services (fire protection, police protection, schools, etc.) to serve the project site.

14. **WHEREAS**, the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.010I.2 of the Interim Marin County Code), as specified below.

- A. **The establishment, maintenance or conducting of the use for which a use permit is sought will not, under the particular case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.**

The proposed project would benefit the public health, safety, and welfare by providing safe water for domestic consumption. The project would reduce the need to pump at the Coast Guard Wells during high tides or other conditions where pumping is known to cause saltwater intrusion and contamination of the aquifer. The project would reduce the need for increased off-tide pumping (which is currently done to compensate for the times when high tides prohibit pumping). The proposed project would not only increase safety but would improve supply reliability. The project, therefore, will be beneficial for public health, safety, and welfare.

The project would further benefit the environment by providing water for plants, fish, and wildlife by permanently dedicating 212.7 acre feet (0.699 cfs) of Lagunitas Creek water that the NMWD can currently divert to instream uses (i.e., for the benefit of plants, fish, and wildlife using the creek). Reduction in off-tide pumping at higher rates would also benefit the Lagunitas Creek fishery by keeping more water in the stream.

Finally, as proposed, the project would be consistent with all applicable policies of the Marin Countywide Plan. The proposed project would not result in visual impacts because the facility would be located over 400 feet from the nearest public roadway in an area that is partially screened from off-site locations by existing vegetation and topographical features. The project would not alter the drainage pattern of the area.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Gordan Bennett appeal, on behalf of an organization called Save Our Seashore, and approves the project described in condition of approval 1 subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Gallagher Family Coastal Permit and Use Permit application, subject to the conditions listed below.

CDA-Planning Division

1. This Coastal Permit and Use Permit approval authorizes the construction of a municipal well to provide water for customers in the community of Point Reyes Station. Two wells are located on U.S. Coast Guard property in Point Reyes Station (Coast Guard Wells), while the third well (Gallagher Well No. 1) is located on the project site. The proposed project is to construct Gallagher Well No. 2 as part of the Gallagher Wells, located approximately 500 feet north of the existing Gallagher Well No. 1. The purpose of the proposed project is to increase the reliability of domestic water supply to offset the loss of water production at the NMWD's other wells located on the U.S. Coast Guard property. The proposed well would tie into the existing water transmission pipeline located south of the private Gallagher Ranch access road. The proposed well and distribution pipelines would occur within 100 feet of Lagunitas Creek, which traverses the project site.

As part of this project, the NMWD would abandon an existing well (the Downey Well), which lies within the Lagunitas Creek stream channel. The Downey Well was initially constructed on the bank of the Lagunitas Creek stream. However, the creek has migrated over time such that the well is now located at the center of the creek channel. As a result, Downey Well produces unsafe water quality for domestic consumption. Other improvements proposed include the construction of water distribution pipelines, pump stations, a well field, and other components both within and outside the project site.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "Gallagher Well No. 2," consisting of 2 sheets prepared by North Marin Water

District, received in final form on February 6, 2021, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

3. The project shall conform to the Planning Division's "Uniformly Applied Standards 2021" with respect to all of the standard conditions of approval and the following special conditions: 10.

SECTION IV: VESTING

Unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within two years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

SECTION V: APPEAL RIGHTS

This decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than five business days from the date of this decision.

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 24th day of May 2021 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

CHRISTINA L. DESSER, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Ana Hilda Mosher
Planning Commission Recording Secretary